

SDMS DocID

2098285

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May 1, 2006**VIA FACSIMILE AND U.S. MAIL**

Mr. Dennis D. Matlock, OSC
United States Environmental Protection Agency
Region III
Wheeling Office – Methodist Bldg.
1060 Chapline St. Suite 404
Wheeling, WV 26003-2995

RE: 8th and Plutus Streets Pottery Site, Chester, WV
Administrative Order by Consent Docket No. CERC-03-200400255DC
Response to Draft Comments


Dear Mr. Matlock:

I am writing on behalf of Newell Holdings Delaware, Inc. ("Newell") in response to the EPA draft comments received at our March 30th meeting. The subject of the comments was the document titled Response Action Plan (RAP) Supplement 1 - Removal Action Implementation Plan (Plan) dated January 31, 2006.

Newell reviewed the EPA Draft Comments, as we agreed at our March 30th meeting, and has attached a tabulation of only those comments which we request be removed or revised by EPA for inclusion in EPA's Final Comments. We have organized the table by EPA comment number, and have provided an explanation for the basis of our request for removal or revision of each.

Please contact me if you have any questions regarding the enclosed comments.

Very truly yours,
ENSR Corporation


Donald O. Nusser, PE
Project Manager

Reviewed by:


Kenneth Battyanyi
ECS Task Manager

cc: L. Meschede
H. Green
G. Rodriguez
A. Sawula
R. Hasson
W. Huggins

PRELIMINARY RESPONSE TO DRAFT COMMENTS 4/19/06

Note: Only comments which are requested to be revised or removed are addressed below.

EPA COMMENT NO.	COMMENTS
4	The generalized description of the site boundaries in this section is based upon physical features, not property ownership. The sample point in question (C-08) is within the Ohio River flood plain whose predominant feature is Mark's Run (hence the quotes). Samples collected west of the facility fence line were within the 100-yr flood plain of the River.
7	"Residents" is consistent with paragraph 2.1 (e) of the Consent Order.
8	The result of the work of the utility locator was the estimation of the location of the gas line which was marked by flagging in the field during performance of the ECS in the vicinity of the residential backyard property. The approximate location of the gas line is shown in Fig. 5 of the Plan.
9	Newell has no information regarding the correlation between construction phasing and construction types. This is outside the scope of the Consent Order.
10	Reference to the Site includes the area beneath the Route 30 bridge.
13	Newell states that the Study has been completed and the results are reported in the Plan.
14	The Consent Order speaks to the appropriateness of such safety assessments. The water tank, office building (now used as a residence), garages, stack, "gas building" and other ancillary structures where soil etc. were not sampled are outside the scope of the ECS.
23	The number of samples, the associated ranges, and the selection protocols are identified in the Plan
27	Data validation was performed in accordance with the EPA-approved QAPP
30	The Site has been adequately characterized to allow the preparation of a proposed removal action consistent with the Consent Order and the remedial goal for lead established in the ECS based upon current use and protection of public health. The proposed removal action utilizes engineering controls in conformance with paragraph 8.3i of the Plan. The characterization performed to date goes beyond justifying the criteria established in the Plan for the use of engineering controls in lieu of excavation. The proposed removal action exceeds the recommendations of the US Department of Health and Human Services Health Consultation report dated October 6, 2005.
31	The highest concentration of lead found at sample location C-08 is well below that level found to be protective of trespassers at the Site.
32	This comment is speculative.
35	The evaluation of PCBs was conducted in accordance with the Consent Order.
36	No results were received from the START contractor. It would be inappropriate to discuss their results in the ECS.
42	Due to the extreme topographic characteristics of this hillside, the proposed action for this area (security fencing precluding land-side access and manual removal of visible shards along the water edge) will preclude the need to "strip" the hillside of the existing dense vegetation which would be necessary to implement an alternative removal action. Clearing the hillside could possibly lead to failure of the slope. No additional characterization is proposed to be conducted in this area.
44	Newell believes that it properly interpreted the Consent Order in regard to the use of engineering controls in lieu of excavation at the Site as described in paragraph 8.3i of the Order. In regard to the Consent Order directive to properly excavate and remove contaminated surface soils, ceramic, and other debris, the results of the ECS indicate that well over 100,000 cubic yards of material of such a nature (intermixed soil, ceramic, and debris) at depths exceeding 40 feet is present at the Site. This depth and quantity exceeds the criteria identified in paragraph 8.3i of the Consent Order, which directs the use of engineering controls "in lieu of excavation where the depth of contamination exceeds two feet, or the total amount of contaminated soil at the Site exceeds 5000 cubic yards."

EPA COMMENT NO.	COMMENTS
45	Newell requests EPA to remove reference to validity of remedial goals. Arsenic is not identified in the ATSDR Health Consultation as a chemical of concern for the Site. Newell is not aware of any toxicological review conducted by ATSDR for arsenic. Newell believes that the arsenic concentrations at the Site are not associated with former pottery manufacturing. Newell agrees that Site-specific removal action guidelines based on toxicological review of the data are appropriate for the establishment of remedial goals for the Site. Newell suggests that the levels established in the Plan be utilized in the absence of any new ATSDR data.
46	As stated above, interim measures have been instituted at the Site in the form of blocking residential access to the "backyard area", and the proposed removal action addresses this area (excavation and removal). This action is commensurate with the recommendations of the ATSDR contained in the 10/6/06 Health Consultation.
49	Soil removed from the residential backyard area will be used to regrade and contour the hillsides on the west and south of the Site (and subsequently covered with clean backfill); excess soil and ceramic debris may be placed in the basement in the southeastern-most portion of the facility, pending discussions with the owner.
50	Newell requests EPA to remove reference to validity of remedial goals. Waste material will be managed per paragraph 8.3i of the Consent Order.
51	Areas of exposed shards were investigated to the extent that profiles of the materials encountered were plotted (Figs. 5 through 8). Fill, pottery and shard material was found to be up to 40 feet thick. Newell believes that the Site was adequately characterized to allow defensible selection of the proposed removal action.
54	Newell requests EPA to remove reference to validity of remedial goals.
55	Newell requests EPA to remove reference to validity of remedial goals.
57	Newell requests EPA to remove reference to validity of remedial goals; fencing is a recognized engineering control; data from samples SDOH4 and SDOH5 indicate off-site migration is not occurring.
60	Newell requests EPA to remove reference to validity of remedial goals.
61	See Comment No. 42.
65	Correction factors have been applied in accordance with the approved QAPP and are documented in the Plan.
68	Equipment rinsate blanks are not required for soil sampling per the approved QAPP.
69	The use of historical data in the Plan is inappropriate since Newell does not have access to chain of custody, laboratory procedures and protocols, and validation results for these data. Newell believes that the Site was adequately characterized to allow defensible selection of the proposed removal action.
70	A Conceptual Site Model is not warranted nor required by the Consent Order.
71	The criteria for identification of lab samples was documented in the Plan.
72	Newell believes that the scope of the ECS is in conformance with the Consent Order section 8.3e and the investigative portions of the study were implemented in the field as approved by the EPA. The results of the ECS provide adequate data to fulfill the purpose of the project as stated in paragraph 2.1 of the Order. The Order is clear in terms of its focus on pottery-related waste. Drums of materials remaining from past barge-cleaning and brake rebuilding and other activities at the Site not related to pottery manufacturing are not the responsibility of Newell.